FINAL

Manure Task Force Meeting
November 21, 2005, DATCP Board Room, Madison

Task Force members in attendance:

Brian Rude, Co-Chair	Dairyland Power; DATCP Board
Steve Born, Co-Chair	Retired UW Professor
Monte Wick	Farmers Coop. Supply & Shipping
Andrew Hanson	Midwest Environmental Advocates
Jay Richardson	Prof. Dairy Producers of WI
Richard Gorder	WI Farm Bureau Federation Board
Rebecca Power	River Alliance of WI
Dan Fischer	Manitowoc Co. Exec.
Lisa Conley	WI Assoc. of Lakes
Wally Lueder	WI Farmers Union
Dana Cook	Manure Hauler, Sauk Co.
Kevin Connors	Dane Co. Dept. of Land & Water Resources
Robert Selk	Trout Unlimited
Kevin Erb	UW-Extension
Dan Brick	Dairy Business Assoc.

Task Force members absent

Ken Blomberg	Rural Water Assoc.

Also in attendance: additional agency staff & others

Upcoming meetings

- **Thursday, Dec 15th**. Public listening sessions will be held at three locations to gather input on the preliminary recommendations. Staff will present a brief PowerPoint overview of the preliminary recommendations, followed by a question and answer period and comments from the public. Task Force members can attend the location of their choice. A press release with location details was issued on December 1, 2005.
  - Eau Claire: 11:00 AM-2:00 PM (plan to attend: Rude, Stevenson, Wick, others)
  - Manitowoc: 4:00-7:00 PM (plan to attend: Castelnuovo, Hanson, Brick, Fischer)
  - Madison: 11:00 AM-2:00 PM **and** 4:00-7:00 PM (plan to attend: Born, VandenBrook, Leuder, Power)

  Thursday, January 19th, DATCP Boardroom, Madison. Members will consider public input, modify and finalize the Task Force's recommendations.
- **DATCP Board Meeting**. Presented for DATCP board meeting in February or March. (members should be notified of the date)

Remarks from DATCP Secretary Nilsestuen

Secretary Nilsestuen praised the Task Force for their impressive range of discussion, their focus on what currently is and is not working, and their acknowledgement of budget issues. He acknowledged the amount of effort expended over the years to maintain the environment and clean water, but reinforced that there is more that needs to be done. He hopes that this effort will result in practical approaches that people can embrace, and that this process will help to obtain the ownership that is needed for implementing solutions.

Logistics

- Roll call
- October 20 meeting minutes approved.
- See handouts provided by staff in response to questions raised from the September meeting.

Presentation: Lake Impacts—Conley & Buzz Sorge

See handouts: Green Lake & Delavan Lake, Powerpoint handout

- Lakes respond very differently from streams to inputs of manure, because they do not flush. Discussed impacts to Delavan Lake, Green Lake, Lake Mendota.
- Discussed economic impacts from reduction of lake quality. Money spent for cleanup is money well spent that comes back to our economy. If more expensive properties are paying more taxes, it results in a tax shift that reduces the burden on other surrounding residents. The cost of implementing P reduction strategies is much less than the cost of cleaning up current phosphorus inputs.
- Most lakes in WI are phosphorus limited (phosphorus is the nutrient that determines the amount of plant growth; as more phosphorus is added, more algae will grow). Doesn't require much phosphorus to stimulate algal growth. Recognizes that nearshore development also impacts lakes. But agriculture delivers about 1 lb/acre/yr. (see chart of P loading).
- Discussed case studies:

- Lake Mendota: We're banking a about 575 MT per year over what it takes to produce the crop. Using SWAT model to redistribute a measured load back to the landscape & then determine how changing practices would change the loading to the watershed.
- Coon Fork Lake: Looked at reducing P in feed while allowing daily haul; resulted in a 29% reduction in Coon Fork Lake. If we both reduce P in feed & schedule manure applications, we get a 32% reduction.
- Squaw Lake: used paleolimnology to take a sediment core to determine historical water quality. Determined up until 1940 it had relatively good water quality; started increasing with agricultural supplements. Had some manure runoff events in late 80s that dramatically increased the load, and even though the farmers have implemented all BMPs, the lake doesn't respond quickly because it's internally drained. We're now bringing less P in than is going out—we have a negative P balance now through BMPs. Soil test P numbers have been increasing across the state, but showed examples of operations bringing those soil test P levels down.

Discussion:

- Did we tease out AU from wildlife versus domestic? Geese will pollute; not an issue on every lake but it does come into play. Wasn't education the major key in getting the BMPs in place? It was a priority watershed project (Squaw Lake) where cost sharing was provided, and education was of course a big part as well.
- Sanitary Districts have a different charge than Lake Management Districts, which have a power of taxation, max 2.5 million. Can create funding sources to help fund practices.
- On Coon Fork Lake and Tainter Lake, both have gage loads to measure P going into the lake; determining where the P came from is modeled.
- Woodlands load at about 10% of agricultural lands.

Revisited Charge: Provide advice to Secretaries of DNR and DATCP on ways to protect water quality from manure runoff, while protecting agricultural interests. Co-Chairs also thanked the agency staff who have worked to support the Task Force.

Review of Draft Recommendations and Summary (Co-Chair Guidance)

See handouts: *Co-Chair guidance on proposed major recommendations manure management task force November 21, 2005*; *DATCP and DNR DRAFT Proposed Findings and Recommendations, Manure Management Task Force, November 11, 2005*.

- To focus on the major recommendations and topics, the Co-Chairs presented a two-page summary of the longer recommendation document that was distributed with the meeting materials. Clarified that both the long and short versions of the recommendations would go to Secretaries. Shorter document is just a summary of the longer document, to present as an easier version to read. The final report would have three parts: the summary, the longer report, and appendices.
- Purpose of this meeting is to refine the draft recommendation documents so that they can be presented to the public at the December public informational sessions.
- Task Force members should send any major recommendations or edits on the longer draft directly to the staff to edit, but try not to get lost in the small scale things. Co-Chairs hope to have general consensus on most items, but are open to having a minority report for any items that the Task Force does not reach consensus on.
- The group recognized that areas of disagreement will remain and be noted as such, but agreed to see how far it could get in relative agreement. Discussed the concern that items would be inserted without awareness of all group members. If document is read by all Task Force members, there should be no surprises.
- Edits to the Recommendations from Task Force members must be submitted to Castelnuovo by Wed. Nov. 23. Draft document should be available by Dec. 1 on the web.

Items not found in the documents that Task Force members felt should be added

- The Task Force previously touched on, but did not resolve, the ability of local governments to act and the current ambiguity on their level of authority. Brown County intends to revisit this issue after Jan 1, 2006, and several ordinances are anticipated. Need to ensure that local and state governments cooperate to determine how much authority is local governments have in a legal context to deal with manure runoff issues, and should come up with some clear determinations.
- Make sure funding is addressed when discussing implementation.
- The value of local small-scale watershed management plans is very high locally, and is missing from our discussion. Should be added to the sections that discus "targeting risk"—explicitly state that the state should empower and fund watershed planning, similar to how lake districts and sanitary districts function.
- Manure spreading on frozen and snow covered ground was a major issue that spurred the creation of this task force, and needs to be explicitly recognized in the recommendations. It is crucial that at least a general recommendation applicable to all operations (not only permitted ones) be included about the value of restricting spreading on frozen/snow covered ground. Under General Considerations, we could create a distinct list of the most important

types of practices needed to address this problem in bullet points: reducing spreading on frozen and snow-covered ground, reducing phosphorus in feed, etc., and then go into what methods can be used to achieve those practices (incentives, regulations, etc). (general agreement) If we don't explicitly state these most important practices, there is some lack of substance.

- The practicality of these recommendations to the day-to-day operations to farmers is missing from the document. Will these recommendations materially help make the needed changes happen? Some of the specifics of implementation will need to yet be worked out by the agencies and stakeholders.
- Note the importance of balancing phosphorus to ensure that we are not continually overloading watersheds with phosphorus but are instead bringing the phosphorus balance down. (will note)

1. Research.

- The Task Force questioned the need for creation of a new umbrella group, and instead recommended that a unit of the Wisconsin Agricultural Stewardship Initiative (WASI) coordinate existing research groups. The Task Force did recognize the need for better coordination and dissemination of research. Try reworking the language to 'ensuring a mechanism is in place' rather than 'establishing' a new group.
- This list addresses acute events but not so much the chronic loading; need to focus more on chronic as well. (Will make explicit). For instance, there is work being done on recovering phosphorus from manure to sell—an opportunity to reduce the base load of phosphorus in the watershed. (Chesapeake Bay, Holland). Could also add info on longer-term manure practices. However, the group recognized that because of high levels of phosphorus in the sediments, results of phosphorus reduction programs require a long time to become evident.
- The section on research is quite lengthy. Add adaptive management language here to streamline some of the bullets in Research or in General Considerations. Also use adaptive management as a guiding principle for how the umbrella group would be run.
- Data collection has been lacking on DNR's part; don't have the documentation needed to implement regulations and practices. Some group members felt that the Task Force should prioritize the research bullet points. However, the Co-Chairs felt that setting priorities for research is a major enterprise, and it would be very difficult for this group to set these priorities.
- Note to group: take the whole mix of recommendations, not feeling that one category outweighs the other categories.
- Draft doesn't feel very concrete; whatever can be done to make it more concrete should be done (e.g. specifically addressing research coordination, reducing phosphorus, addressing chronic impacts, causes of runoff events, etc.).
- Eliminate 4th bullet (is covered in other bullets).

2. I&E & Alternative Systems and Management.

- Group agreed to the idea of developing a manure spreading advisory system, though discussed the practicality of it at a statewide level. Suggested creating guidelines for the advisory system at either the 24 or 48 hour level. Could be set up on a regional basis, similar to national weather service flood warnings, or done by zip code. Could be set up as an educational tool to help assess degrees of risk and find out the risk index for that day.
- Farm economics is important in helping educate people.
- Group agreed we need explicit language asking for funding for adequate training programs for nutrient management. The Task Force agreed that the lack of resources is not so much on the university level but on the county side for implementation. County staff have to identify whether training is a priority and promote it. The university has been involved in setting up training for farmers & consultants, has been ongoing for many years. However, we do not have the capacity to do that for everyone by 2008 (per Erb, UW typically reaches 17 operators per county per year). The system is very effective for those who participate but requires dedicated staff & finances. Erb noted that the Multi-Agency Land & Water Education Grant (MALWEG) program which funds this training is federal and is diminishing each year.
- The coordinating body could also work on I & E aspects. The UWEX Nutrient & Pest Management (NPM) program coordinates nutrient management outreach right now, so just need to find out what resources are needed to get that outreach done. Suggested reworking the first bullet of recommendations to reflect current NPM I&E efforts.
- I&E is different from marketing—Powers will look at I&E section to see if the two can be better clarified.
- Encourage the farm groups to sponsor the I & E aspects—would build local ownership. (agreed)
- Farm economics should be a focus of I&E; more widespread awareness of those models.

3. Implementation of nutrient management plans.

- Seemed to be some agreement to specify recommending P-based NMPs with water quality protection components.
- There was some disagreement on what constitutes an effective nutrient management plan, and whether NRCS 590 does enough or not. For acute issues NRCS 590 may not be sufficient (loading rates are too high, setbacks aren't

large enough in 590), though it addresses chronic impacts better than acute. The group did recognize that if 590 were implemented today it'd have a profound impact on water quality even though it won't address all acute events.

- NRCS 590 standard is in DATCP's rule, and contains winter setbacks, hydraulic loading limits (not as stringent as NR 243), spreading restrictions, and a provision that allows locally identified vulnerable areas to have more restrictions. It is fairly broad on the local level; counties can identify local areas that are susceptible, and implement field-by-field restrictions. 590 is not a regulation, it's a standard—it doesn't mandate or restrict any behaviors. There's no requirement that local areas identify their vulnerable areas.
- Regarding spreading time: have to be careful that you don't have everyone hauling in spring & summer, that we don't cause millions of dollars worth of damage to the roads. This would impact the Town Associations--some towns won't let equipment on the roads unless roads are frozen. Should indicate that there are some constraints on implementation—other issues that will come into play.
- Implementation of funding mechanisms: clarify that $7-14 million ANNUALLY is needed.
  - Task force may be better off recognizing that NMPs are a top priority but not suggesting specific ways to fund them or it will become too controversial. Or could list several possibilities for funding (see discussion below for some options).
  - See handout on surcharges. The challenges on a surcharge are not in calculating how much to charge, but who to charge it to, and whether the surcharge should be on both in & out of state milk—may cause impacts on competition between states. If it applies at retail level it would apply to both in and out of state milk, and may therefore be less of a problem. Who would collect the charge? A lot of money can be generated through cwt rather than per gallon. This may be out of range of this Task Force, but it does demonstrate that economics will drive this process—has to be cost effective to the producers.
  - Could apply a gas tax to ag (not currently in place). Give tax break only to production farm acres—(see handout: Connecting Conservation with Tax Incentives—provided by Conley). Discussed charging a variable tax depending on how land is being used. Taxes are much higher on conservation lands—suggested that if a farm had a whole farm plan, a whole farm tax break could be implemented. Remove the disincentive that is currently in place. It's a shift of taxes from one segment to another. Use Value Assessment was proposed but has already been discussed by the legislature and doesn't seem viable.
  - Discussed a fee on septic systems, and additional surcharge on sewer bills, making fees higher for new dwellings' septic systems.
- Targeting where funds go—point for after the meeting. We should consider exploring a mechanism for having monetary compensation for NMPs be in accord with the actual costs of creating/implementing those NMPs. (i.e. shouldn't subsidize a net gain)
- The market forces that are in place will also drive increasing implementation of NMPs eventually.

<u>Other Planning</u>

- Local watershed planning. Powers recommended empowering watershed management planning—power to tax, to make management decisions for their lake—providing some sort of designated authority and funding mechanism. Having this mechanism is essential in getting local people together to discuss these issues, and would also provide a way to implement the nonpoint program. Suggested adding to last bullet on page 5, "and other locally led endeavors", "assuring inputs from local watershed groups and planning incentives associated with it", or tie it to impaired waters or TMDLs. There are examples in WI and other states where it has been done. Could explore those types of systems. However, the Task Force concluded that amending watershed associations' authority is beyond the scope of the Task Force charge.

4. Emergency management.

- Scope of Emergency Management Plans (EMP): There are 10 templates currently existing for comprehensive emergency management plans to cover different areas. Or, the plan can be much smaller and more generalized.
- There is also an insurance discount associated with having an emergency management plan.
- Task Force members all strongly encourage EMPs. However, the Task Force was split in terms of how that should be accomplished—voluntary or regulatory. All felt strongly that EMPs do need to be achieved; whichever method is chosen should be revisited in the future to assess the success of method chosen. Co-Chairs clarified that Task Force members are encouraged to write a minority report if they disagree with parts of the recommendations.
  - Discussed whether we should mandate EMPs or encourage them (through limited enforcement agreements, etc.). We have a list of recommendations that do not have any force through codes. Some members suggested making the use of EMPs mandatory for medium & large operations, with incentives for all operations. Currently EMPs are mandated for NR 243 permitted operations and covered by livestock siting regulations.

- Both education and the law go hand in hand; don't close the door on mandating EMPs. The burden is minimal, but we have an ideological idea that we need to allow farmers to be irresponsible if they want to be. Others argued that we should use I&E before regulations.
- The problem is that we don't know what is in the plans and who the actors are. Need to 1) determine what is to be included in the EMPs; 2) determine roles and responsibilities; 3) use the above these to develop a standard EMP identifying roles and responsibilities; 4) promote those standardized EMPs.

- General consensus to include encouragement of counties to create their own EMPs in Task Force recommendations. Counties should also put emergency management plans in place. The templates are there but there's been no outreach on it. Add language: "Encourage farmers and local governments, supported by educational efforts and incentive programs." There's a high value in education of both farmers and county officials—need to increase the dialogues there.
- The risk of not having plans is relatively high compared to the level of effort and cost required to make these plans. Recognize that EMPs are after the fact, not a risk-based proactive assessment.

5. Regulations.

Recognized that several related processes are happening right now in conjunction to the Task Force: NR 243, ATCP 50 and 51, Livestock Siting, Buffer Initiative. Regulations bring with them other things like enforcement, monitoring, etc.

- Licensing manure applicators:
  - In previous discussions, it seemed there might be some consensus on regulating licensing for manure haulers. However, it was pointed out that less than 1/3 of manure is spread by commercial manure haulers and 2/3 is spread by operators; members raised the question of whether money & efforts should be targeted toward operators instead. The possibility was also raised of including mandatory larger operations in commercial hauler training, as well as voluntary training for smaller operations (for small operations, some do not see a need for this type of training). Erb stated that most states license farmers, not commercial manure applicators (see handout on state licensing programs). In the handout with statistics on recent runoff events, in only 7 cases was the manure spread by contract haulers, in 27 cases it was spread by the operator. Need to assess where efforts will be best targeted to protect the most water quality. If operators are the focal point, should the focus be education/training, or should there be a regulatory component? There is concern by commercial haulers that operators should be held to same standard as commercial. Requiring training of everyone promotes a level playing field, and that is desirable from the standpoint of many applicators.
  - What is needed is to have everyone educated & motivated to do the right thing? Motivation could be economic, societal, or regulatory.
  - Discussed whether the pesticide applicator program could provide any guidance into how a licensing program for manure applicators could be run. The pesticide booklet and test are updated every 5 years. Guidance from EPA is given to each state to enact. All people that apply certain high-risk pesticides must go through that training. Applicators for hire (3+ fields or 500+ acres a year) must get higher level certification (commercial license). The idea of adding nutrients training to the pesticide training has previously been discussed and rejected by the University. Pesticide certification is different from nutrient management, since most of manure management is unique to each farmer.
  - This could go hand in hand with the emergency management component. Much of the manure hauling training would be an overlap with the EMPs, and could be one part of the emergency management strategies. Couple writing the EMP with manure hauling training. Should one be licensed, and the other be encouraged? Could all be part of the environmental management system approach.
  - Certification vs licensing: There is not a clear distinction between licensing and certification in some states; sometimes the terms are used interchangeably. But in WI, certification is a higher level of voluntary training; licensing is something that is required to operate. Licensing might encompass more (for instance, financial requirements).
  - Could DATCP have the current Professional Nutrient Applicators Association of Wisconsin (PNAAW) group implement this program rather than taking it on as an agency? PNAAW can also train people who are not members. The PNAAW training is a 3-tier program. Could require only the first tier of the 3 tier program, and then applicators could go beyond that to tier 2 or 3 if they want to. We should note the current program template in the recommendations.
  - How would we go about policing this? If it is a regulatory program, there would be sanctions if there were a runoff event.
  - This issue hasn't been fully resolved; we will listen to public comment.
- Need to make sure that development of the Phosphorus Standard stays in the recommendations.
- Local governmental authority.

- There is concern with finding a way to say stop spreading on frozen/snow covered ground in certain situations and locations for smaller operators. Since the state is not willing/able to move ahead in regulating this area of pollution statewide, we ought to at least recommend that local governments be enabled to take action with this problem. The State should not leave local governments in the lurch. Castelnuovo indicated that there is some authority of local governments to restrict spreading without requiring NMPs (this may need further discussion).
- At least in certain vulnerable parts of the state, we should recommend that there are some restrictions to applications on frozen/snow covered ground. A.) support authority of local governments to enact more stringent requirements to protect water quality. B) for trargeted areas in the state (Niagara escarpment) NMPs should be required to protect public health & the public trust.
- Ensure that timely responses are given to questions of local control: work closely with local governments to address questions of local authority with timely responses.

- How do we reach the folks who are not members of the progressive dairy organizations?
- Education or regulatory approaches:
  - Some members reiterated that they advocate for education first, and if that doesn't work, then move to regulation. However, there needs to be motivation for people to get education—through herd health, economics, etc. As part of this motivation, you could use some regulation as a last resort. Three options: Give local governments authority; use a statewide targeted approach; or education for all with no additional regulation at this point in time (perhaps higher level of implementation of existing regulations). Regulations tend to precede the science sometimes. Education in some areas works well for production, but education in other areas hasn't kept up with the producer; can't slow down production agriculture but need to speed up education to keep up with the fast growth of agriculture.
  - There is nothing in the document to address even what Dennis Frame has recognized the serious risks from spreading at certain times and circumstances. Need to address this. There are some situations where education alone is not going to be effective. You need to couple education with some sort of hammer, responsibility.
  - Ideally, we'd like everyone to have an NMP; but in the real world we don't have the delivery systems to make this a reality. Perhaps consider something short term, and 'NMP Light"…like some common sense recommendation.
  - If we list just the desirable behaviors in the recommendations, that will sidestep the issues of how to implement them…but eventually it does boil down to what means will be used to get to the ends.
- A winter spreading plan might be a good middle ground. If you want to haul manure in winter it must be done in accordance with a winter spreading plan done by a certified agronomist or conservation planner. This is not to the level of expense or investment of a 590 plan, but it would further minimize the risk. Suggests applying this to all operators. The decision of which field to spread on still remains with the farmer, but is done so with the knowledge that they'd be accountable to DNR & public if a runoff event occurs. Could either be done statewide or in certain targeted areas. It would not necessarily have to be submitted to someone. If there's a runoff problem they need to be able to pull the plan off the shelf & demonstrate that they did spread according to plan.
  - Raised the questions of who would oversee winter spreading plans? Should it be rolled up with the EMP, etc?
  - If we opt for this winter spreading plan, clarify that it does not prohibit winter spreading. Also clarify that it does not have to be submitted but does have to be kept on file and adhered to.
- The group identified a strong recommendation that the following be adopted by farmers: 1) a winter spreading plan, 2) a manure hauling plan, and 3) an emergency response plan. However, the group was split on how to achieve this: voluntary/educational, or mandatory.
- Some members also advocated for adding a bullet to the recommendations calling for adequate enforcement of existing regulations. Implement clear and certain enforcement, especially in areas with repeated violations. The current number of enforcement actions is very low. Identified bad actors should be enforced against with regularity. Perhaps instead of going to DOJ, levee fines directly that go to environmental restoration funds (though the legislature has not accepted that as a feasible option in the past).

6. Compensation for well contaminations.

Group had consensus on keeping this recommendation. To do this, NR 123 would have to be revised. The same funding mechanism may be able to apply as for other types of well contaminations; we would ask the legislature for more funds from the General Fund. The state can then recover costs from the responsible party, but this will go back into the General Fund and not into the well compensation program, and it is rarely pursued.

7. Limited enforcement program.

- On a conceptual level, the group agreed on this recommendation. Recognition that development of the details on both sides are critical to support of this concept. Group agreed to a regional pilot program.

- It would have to be assured that the environmental performance is worth the incentive provided—i.e., whatever the state is giving up in terms of enforcement is offset enough by high quality environmental results. Participants would have to meet a high standard to even qualify.
- Green Tier does provide a good framework to work within. Green Tier regulation does go into great detail on environmental, regulatory, and economic incentives. For Green Tier, an operator has to be in compliance with all regulations for a certain amount of time before even qualifying for the program; then must meet additional standards. Question on whether it provides incentives for both regulated and unregulated entities.
- Along with limited enforcement for exemplary operations, there should be clear & certain liability for operations that are not complying.

Public Meetings
See "Upcoming Meetings" above for locations and dates. Each meeting will begin with a 20-30 minute staff presentation. Task Force Member welcomes public. Can be a discussion rather than a formal hearing. Staff & members must stay the entire time.